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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/697,542	08/27/1996	ROBERT S. BLOCK	003750-006	9969
21839	7590	05/20/2004	EXAMINER	
BURNS DOANE SWECKER & MATHIS L L P POST OFFICE BOX 1404 ALEXANDRIA, VA 22313-1404			SRIVASTAVA, VIVEK	
		ART UNIT		PAPER NUMBER
		2611		
DATE MAILED: 05/20/2004				

47

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	08/697,542	BLOCK, ROBERT S.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Vivek Srivastava	2611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 2/24/04.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 27,34,45,47 and 61-66 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 45, 47 and 61-66 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                     | Paper No(s)/Mail Date. _____ .  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____ .                                  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 34, 45, 47 and 61-66 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herz.

Regarding claims 34, 45 and 61, Herz discloses rating a program at a plurality of levels including profanity, violence and sex (col 11 lines 45 – 55) and providing an advertisement based on the user's content profile (col 47 lines 53 – 67). Since targeted advertisements are run during a program, and program and customized advertising are provided based on the customer content profile, Herz discloses the claimed "scanning the program information label to ascertain the instantaneous content level of the program over the duration of the program, determining one of a plurality of advertisements to be run during the program based upon the instantaneous content level of the program and scheduling one advertisement within the program at a time based on the instantaneous content of the program information label."

Herz fails to disclose the claimed wherein the advertisement is scheduled to be presented within a predetermined threshold time interval of the a predetermined value. The Examiner takes Official Notice that it would have been well known in the art to

present an advertisement within a predetermined time interval to ensure the advertisement is correctly displayed at the desired time. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Herz to include the claimed limitation to ensure the advertisement is displayed correctly and at the desired time.

Regarding claim 47, Herz discloses an information label which specifies the content level of sex and violence (see col 11 lines 45-58) and displaying a target advertisement after the determination of the content level (see col 47 lines 53-67). The claimed "predetermined time is met at which the advertisement is supposed to be scheduled. It should be noted the "time interval" feature was discussed in claim 45 above.

As to claims 63, 65 and 66 the claimed limitations are met by that discussed above. Herz fails to disclose wherein the advertisement is scheduled to be presented outside a predetermined time interval of the content of the information having the at least one aspect.

The Examiner takes Official Notice it would have been well known to include this feature to ensure the advertisement is displayed correctly and at the desired time.

Claims 62 and 64 is met by claim 47 wherein the category includes "sex" and "violence"

#### ***Allowable Subject Matter***

Claims 27 and 31 are allowed.

***Conclusion***

***Conclusion***

**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

**or faxed to:**

(703) 872 - 9314, (for formal communications intended for entry)

**Or:**

(703) 308- 5399 (for informal or draft communications, please label  
"PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal  
Drive, Arlington, VA., Sixth Floor (Receptionist).

Any inquiry concerning this communication or earlier communications from the  
examiner should be directed to Vivek Srivastava whose telephone number is (703) 305 -  
4038. The examiner can normally be reached on Monday - Thursday from 8:00 am to 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's  
supervisor, Andy Faile, can be reached at (703) 305 - 4380.

Any inquiry of a general nature or relating to the status of this application or proceeding  
should be directed to the group receptionist whose telephone number is (703) 305 - 3900.

VS 5/15/04



VIVEK SRIVASTAVA  
PRIMARY EXAMINER